

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF ALPHA CELLULAR)	
TELEPHONE COMPANY, A FLORIDA)	
GENERAL PARTNERSHIP, FOR THE)	
ISSUANCE OF A CERTIFICATE OF PUBLIC)	
CONVENIENCE AND NECESSITY TO)	
PROVIDE DOMESTIC PUBLIC CELLULAR)	
RADIO TELECOMMUNICATIONS SERVICE TO)	CASE NO.
THE PUBLIC IN THE KENTUCKY RURAL)	91-377
SERVICE AREA WHICH INCLUDES)	
ELLIOTT, LAWRENCE, MORGAN,)	
MAGOFFIN, JOHNSON, MARTIN, FLOYD)	
AND PIKE COUNTIES IN KENTUCKY, FOR)	
APPROVAL OF FINANCING, AND FOR)	
ESTABLISHMENT OF INITIAL RATES)	

O R D E R

This matter arising upon petition of Alpha Cellular Telephone Company ("Alpha Cellular") filed December 6, 1991 pursuant to 807 KAR 5:001, Section 7, for confidential protection of its Mortgage and System Sale Agreement (Exhibit 16), its Working Capital Note and Purchase Price Note (Exhibit 17), its Loan Agreement and Partnership Interest Security Agreement (Exhibit 18), and its Schedule of Estimated Draws and Amortization Schedule (Exhibit 19) on the grounds that disclosure of the information is likely to cause Alpha Cellular competitive injury, and it appearing to this Commission as follows:

Alpha Cellular has applied for a Certificate of Public Convenience and Necessity to provide domestic public cellular telecommunications service to the public in its authorized rural

service area. In support of its application, Alpha Cellular has submitted as exhibits to its supplement to the application its Mortgage and System Sale Agreement, its Working Capital Note and Purchase Price Note, its Loan Agreement and Partnership Interest Security Agreement, and its Schedule of Estimated Draws and Amortization Schedule. Alpha Cellular contends that disclosure of the information contained in the exhibits is likely to cause it competitive injury and has petitioned that the information be protected as confidential.

The information sought to be protected is not generally known outside of Alpha Cellular's business and is not generally known by its employees except on a need-to-know basis. Alpha Cellular seeks to protect and preserve the confidentiality of the information through all appropriate means.

Under 807 KAR 5:001, Section 7, information is protected as confidential when it is established that disclosure is likely to cause substantial competitive harm to the party from whom the information was obtained. In order to satisfy this test, the party claiming confidentiality must demonstrate actual competition and a likelihood of substantial competitive injury if the information is disclosed. Competitive injury occurs when disclosure of the information gives competitors an unfair business advantage.

The cellular telephone market is a competitive industry and Alpha Cellular will have competition in the rural service area in which it proposes to construct the system described in its application for a Certificate of Public Convenience and Necessity.

Therefore, if the information sought to be protected can be used by Alpha Cellular's competitors to gain a competitive advantage, the information is entitled to protection as confidential.

In its petition, Alpha Cellular contends that competitors could use the information to gain a competitive advantage by structuring their rates and marketing their services in a manner which would preclude Alpha Cellular from competing effectively for customers. The petition, however, does not demonstrate how the information could be so used and, therefore, does not establish its entitlement to protection. Thus, the petition should be denied.

This Commission being otherwise sufficiently advised,

IT IS ORDERED that:

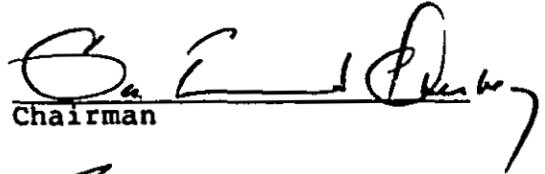
1. The Mortgage and System Sale Agreement (Exhibit 16), the Working Capital Note and Purchase Price Note (Exhibit 17), the Loan Agreement and Partnership Interest Security Agreement (Exhibit 18), and the Schedule of Estimated Draws and Amortization Schedule (Exhibit 19), which Alpha Cellular has petitioned be withheld from public disclosure, shall be held and retained by this Commission for a period of 20 days from the date of this Order to allow Alpha Cellular an opportunity to file a supplement to its petition for confidentiality setting forth in detail the manner in which the information sought to be protected could be used by its competitors to gain a competitive advantage.

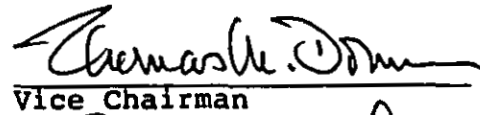
2. If, at the expiration of the 20-day period, Alpha Cellular has not filed a petition for confidentiality in conformity with the Commission's regulation, the petition for

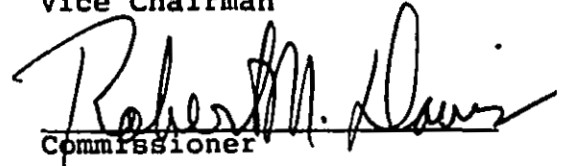
confidential protection shall, without further Orders herein, be denied and the information sought to be protected shall be placed in the public record.

Done at Frankfort, Kentucky, this 9th day of January, 1992.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director